

**DEPARTMENT OF MINES, MINERALS AND ENERGY
DIVISION OF MINED LAND RECLAMATION**

GUIDANCE MEMORANDUM¹ No. 19-07

Issue Date: November 16, 2007, **Revised April 21, 2008**

Subject: **Acreage Amendments, Anniversary Reports, and Temporary Cessations**

The following concerns the permitting processes for acreage amendments, anniversary reports, and temporary cessations.

ACREAGE AMENDMENTS

Effective December 1, 2007, permittees applying for an acreage amendment² to a permit participating in the Coal Surface Mining Reclamation Fund under Part 4VAC25-130-801 of the Virginia Coal Surface Mining Reclamation Regulations will be required to submit the applicable reclamation fund entrance fee required by §4VAC25-130-801.12(a). In addition, the permittee will be required to pay the applicable reclamation fund taxes as provided by §4VAC25-130-801.14 (a) and (e) for coal produced in the acreage amendment area.

The requirement to submit the entrance fees set by §4VAC25-130-801.12(a) will not be assessed for those acreage amendment applications that were filed with the Division (and for which public notice was published) prior to December 1, 2007. However, the reclamation taxes required by §4VAC25-130-801.14 (a) and (e) will apply.

ANNIVERSARY REPORTS

Effective January 1, 2008, anniversary reports should be submitted in an electronic application to the Division at least 45 days before the permit's anniversary date. This will allow the Division time to review the reports and request any necessary corrections prior to the anniversary date.

These sections of the electronic application should be completed –

1. Section I
2. Section II

¹ This Memorandum is to be considered a guideline issued under the authority of § 45.1-230.A1 of the Code of Virginia which reads:

"In addition to the adoption of regulations under this chapter, the Director may at his discretion issue or distribute to the public interpretative, advisory or procedural bulletins or guidelines pertaining to permit applications or to matters reasonably related thereto without following any of the procedures set forth in the Administrative Process Act (§ 2.2-4000 et seq.). The materials shall be clearly designated as to their nature, shall be solely for purposes of public information and education, and shall not have the force of regulations under this chapter or under any other provision of this Code."

² An Acreage Amendment is designated as "AA" in the electronic permit application.

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3. Section III
4. Section VII (make the necessary acreage changes if corrections are required)
5. Section IX (attach the electronic copy of the seeding report³ in Item 9.4)
6. Section XVII (if the haulroad construction and design needs to be addressed per Guidance Memorandum 10-05⁴)
7. Section XIX (if changes in the bonding plan are required due to acreage corrections)
8. Section XXI (attach completed forms DMLR-PT-034D and DMLR-PT-028 and annual impoundment/pond certifications in Item #21.1, required maps in Item # 21.2, map legends in Item # 21.4, and a drawing in 21.5)⁵

Anniversary Maps

Except for the exclusions noted below, an anniversary map should be included with the anniversary report submitted to DMLR. The map should:

- 1) Be submitted at a scale of 1" = 400'
- 2) Include a completed map legend (DMLR-PT-017) with appropriate information that corresponds with the anniversary report (DMLR-PT-028) (including the "*Since Permit Issuance*" data).
- 3) Be color coded per the map legend (DMLR-PT-017) to reflect actual field conditions at the time the report is prepared.
- 4) Provide the "*Linear and Square Feet of Highwall Eliminated*" for remaining areas, if applicable and in the corresponding fields on the map legend (DMLR-PT-017).
- 5) Reflect any changes in the permit boundary since the last approved permitting action.
- 6) Acreages for ponds should be calculated as disturbed acres until the respective pond area has been reclaimed and vegetated.

Exclusions

- 1) An annual extent of underground mine works map will not be required for DMLR.
- 2) If the surface operation has not changed from the previous year (site in temporary cessation or a deep mine face-up area) no anniversary map will be required.

Primary Road Requirements

In reviewing the anniversary material, the Inspector will determine if there have been any changes in the primary roads since the last anniversary, renewal, or other permitting action (see Guidance Memorandum #10-05⁶). If the Inspector determines there has been a change in the

³ Seeding Report – DMLR-PT-011

⁴ <http://www.dmme.virginia.gov/DMLR/Adobe/10-05ReqHaulroadConst.pdf>

⁵ Refer to the Electronic Permitting Application Guide for detailed instructions.

⁶ Should you have any questions regarding road classifications, please contact the DMLR's Reclamation Services Manager at (276) 523-8197.

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primary road designations, an update will be required. The Inspector will instruct the permittee to submit the updated haulroad information (i.e., map, plans, and as-built certification) as attachments in the proper section of the anniversary report application. Upon submittal, the revision application *will be reviewed in accordance with DMLR permit review procedures.*

Certifications

- 1) Annual impoundment/pond certifications are to be submitted with the Anniversary Report (2 copies – original and the Inspector’s copy).
- 2) Haulroads - See above regarding primary roads.

Seeding Reports

If seeding has been conducted or trees planted since the last anniversary report or renewal, a seeding report (**DMLR-PT-011**) will need to be completed and submitted with the anniversary map and report. The acreages noted on the seeding report should correspond with those listed on the anniversary report, map, and map legend.

DMLR Review

The field Inspector will review and initial the anniversary report and certifications prior to submittal to DMLR’s office.

In the event the Inspector determines a discrepancy exists concerning the anniversary materials and the actual field conditions, the Inspector will require the permittee to correct the information prior to submitting the materials to the DMLR’s Big Stone Gap office.

Once received by the DMLR office, the anniversary materials will be routed to the Permit Review Specialist and Engineering Technician for detailed review.

Anniversary Fees⁷

Upon approval of the anniversary report, the DMLR will notify the permittee by certified mail of the required anniversary fees. The fees will be in the amount of \$13.00 per acre multiplied by the total number of acres disturbed since permit issuance, or portion thereof (e.g. 25.10 acres = 26 acres rounded up X \$13.00 = \$338.00). Payment shall be submitted to the Division by cash, check, or money order. A check or money order should be made payable to the “Treasurer of Virginia.”

⁷ See Guidance Memorandum #6-03, Permit Fees, issued May 12, 2003.

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Effective July 1, 2008, the DMLR's Permitting section will notify the permittee in writing of the applicable anniversary fees of \$ 300.00 for each NPDES discharge outfall of the permit, as required under §45.1-254C⁸.

TEMPORARY CESSATIONS

Effective immediately, the Division will discontinue reviewing and approving temporary cessation requests and applications for areas that have been in temporary cessation status for an extensive period of time.

The maximum period that the Division will grant for a temporary cessation request is 2 ½ years. This includes permits which have active mining operations and area(s) in temporary cessation. The permittee may submit a request to the Division to extend the temporary cessation status for an additional period up to 2 ½ years, not to exceed the permit's expiration date. The request should include detailed justification as to why an extension is warranted and should be granted by the Division.

In the event an extension of temporary cessation is not granted, the permittee will be required to activate coal surface mining operations at the temporary cessation area(s) or expeditiously initiate reclamation of the subject area(s) prior to the expiration date of the temporary cessation status. The required reclamation shall be performed in accordance with the permit's approved reclamation plan.

Should you have any questions regarding this guidance memorandum, please contact the DMLR Reclamation Program Manager at (276) 523-8160.

⁸ § 45.1-254 of the Code of Virginia was amended by Chapter 273 of the Acts of Virginia General to provide for permit application and anniversary fees for discharge outfalls subject to the National Pollutant Discharge Elimination System (NPDES) permits under the Virginia Coal Surface Mining Control and Reclamation Act of 1979, as amended.